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TOP AGENT NETWORK, INC.

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA - OAKLAND DIVISION
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13 TOP AGENT NETWORK, INC.,

14 Plaintiff,

15 v.

16 NATIONAL ASSOCIATION OF REALTORS;
17 CALIFORNIA ASSOCIATION OF
REALTORS, INC.; SAN FRANCISCO
18 ASSOCIATION OF REALTORS,

19 Defendants.
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CASE NO. 4:20-CV-03198 DMR

**[PROPOSED] TEMPORARY
RESTRAINING ORDER AND ORDER
TO SHOW CAUSE WHY A
PRELIMINARY INJUNCTION SHOULD
NOT ISSUE**

Date:

Time:

Judge: Hon. Donna M. Ryu

Complaint Filed: May 11, 2020

1 **TO DEFENDANTS NATIONAL ASSOCIATION OF REALTORS, CALIFORNIA**
 2 **ASSOCIATION OF REALTORS, INC., AND SAN FRANCISCO ASSOCIATION OF**
 3 **REALTORS:**

4 **YOU (AND EACH OF YOU) ARE HEREBY ORDERED TO SHOW CAUSE** at
 5 _____ (*time*) on _____ (*date*), or as soon thereafter as
 6 counsel may be heard in the courtroom of the Honorable Donna M. Ryu, located at the Oakland
 7 Courthouse, Courtroom 4 – 3rd Floor, 1301 Clay Street, Oakland, California 94612, why you, your
 8 officers, agents, servants, employees, and attorneys and those in active concert or participation with
 9 you or them, should not be enjoined, pending resolution of this action, from requiring mandatory
 10 compliance with, and/or enforcing, the Clear Cooperation Policy against Top Agent Network, Inc.’s
 11 (“TAN”) members , pending the final resolution of this lawsuit. Such hearing shall occur via
 12 videoconference or telephone conference with access details to be provided by the Court in advance
 13 of the hearing.

14 PENDING HEARING on the above Order to Show Cause, you, your officers, agents,
 15 servants, employees, and attorneys and those in active concert or participation with you or them
 16 ARE HEREBY ENJOINED from requiring mandatory compliance with, and/or enforcing, the Clear
 17 Cooperation Policy against TAN’s member agents. This Order specifically requires you and those
 18 in active concert or participation with you not to (1) require that TAN member agents list properties
 19 on an MLS as a result of their using TAN to either access or provide information about properties ,
 20 and/or using TAN’s “match-making” service which facilitates one-on-one private conversations
 21 between a buyer’s agent and seller’s agent with symmetrical needs; or (2) mandate that any of your
 22 affiliates do the same.

23 It further requires you not to issue fines, penalties or take any other disciplinary or punitive
 24 action against TAN’s member agents for engaging in such activities, or to mandate that any of your
 25 affiliates do the same.

26 In issuing this Temporary Restraining Order, the Court finds and concludes that Plaintiffs
 27 have shown that immediate and irreparable injury will result to the Plaintiff, TAN and others
 28 similarly situated who have networks and listings that compete with the Defendants’ MLS systems.

1 This Temporary Restraining Order (TRO) is effective immediately. The Court waives the
2 security requirement under Federal Rule of Civil Procedure 65(c) because Plaintiff has demonstrated
3 that Defendants will not be damaged, financially or otherwise, in complying with the TRO, as the
4 TRO requires the same system that had been in place prior to the Clear Cooperation Policy and for
5 years before its inception.

6 This Order to Show Cause and supporting papers must be served on Defendants no later than
7 _____ days before the date set for hearing, and proof of service shall be filed no later than _____
8 days before the hearing. Any Response or Opposition to this Order to Show Cause must be filed
9 and served on the Plaintiff's counsel through ECF no later than _____ Court days before the
10 date set for hearing. Any Reply shall be filed and served no later than _____ Court days before the
11 date set for hearing.

12 Dated: _____

HON. DONNA M. RYU
UNITED STATES MAGISTRATE JUDGE